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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,593	06/17/2005	Akihiko Shirakawa	Q73676	4782

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EXAMINER	
HOBAN, MATTHEW E	

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
07/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/539,593	SHIRAKAWA ET AL.	
	Examiner	Art Unit	
	Matthew E. Hoban	1793	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Jerry A Lorengo/
Supervisory Patent Examiner, Art Unit 1793

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Wada's article does not provide data to support his description of "impurity-free, defect-free" particles. The first article is directed towards a Japanese Patent directed towards the same subject matter as that of the article, which was filed by Wada. This patent document is in fact also directed towards a method of making barium titanate; however, in this patent application, according to what was submitted by the applicant, the method of formation is materially different from the method used by Wada in the document used as prior art. The NPL document of Wada uses a Low temperature direct synthesis technique, where barium hydroxide and titanium tetrachloride are used at a low temperature. The Japanese patent is directed towards heating barium oxalate titnayl 4 hydrate in an oxygen environemnt followed by several steps. The steps used in either publication are not synonymous, therefore one cannot argue that the products are the same, and have the same properties. Furthermore, the applicant cites a paragraph from the japanese patent stating that the weight loss from the lattice due to hydroxyl groups is as much as 2%. The document clearly states that the total weight loss over the whole heating range is 2%. Regardless, the methods in this Japanese document and that of Wada's publication as cited previously use materially different processes to form barium titanate, and thus arguments against the japanese document are moot. The second argument is directed towards the density accuracy of pyncometers. The applicant submits that the accuracy of readings by this method is +/- .0001 g/ccm. This error range as cited by applicant is due to mechanical error in the pyncometer and does not take into account other error as previously stated by the examiner. Therefore, the arguments that the denisty of the particles necessitates that Wada has voids is unconvincing. Applicant's third argument is directed towards the TEM image of the particles. Previously, the examiner stated that there were no pertubations in the TEM image. The examiner agrees with the applicant's submission that a perfect single crystal can have voids and defects; however, these voids and defects would be observable in a TEM. TEM is based on the diffraction of an electron beam from crystallographic planes in a sample. Defects such as voids and dislocations perturb the normal diffraction of this beam making such defects observable. These defects are not present in the images provided by Wada, which supports the fact that they are not present..